

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

Oscar Rodriguez, Esequiel Rodriguez,)
and Juan Rodriguez,)
Plaintiffs/Judgment Creditors,)
v.) Case No. 4:07-mc-00447-CAS
Lawns of Distinction, Ltd. and)
John Andrews,)
Defendants/Judgment Debtors,)
v.)
EKM Enterprises, Inc. d/b/a Lawns of)
Distinction, Gary C. Andrews, and)
Sharon Andrews,)
Third Party Defendants.)

**THIRD PARTY DEFENDANTS' MOTION TO DISMISS BASED
ON LACK OF SUBJECT MATTER JURISDICTION**

COMES NOW Third Party Defendants EKM Enterprises, Inc., Gary Andrews and Sharon Andrews, by and through their undersigned counsel, and pursuant to Rules 12(b)(1) and 12(h)(3) of the Federal Rules of Civil Procedure, respectfully move this Court for entry of an Order granting Third Party Defendants' Motion to Dismiss Based on Lack of Subject Matter Jurisdiction and dismissing Plaintiffs' Complaint. In support of its position, Third Party Defendants contemporaneously file their Memorandum of Law in support of their Motion to Dismiss Based on Lack of Subject Matter Jurisdiction.

Respectfully submitted,

MCCARTER & GREENLEY, LLC

/s/ Jeffrey K. Elnicki

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CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of October, 2008, the foregoing instrument was electronically filed and served upon the following:

Mr. Nathaniel Norton
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300 South Texas Blvd.
Weslaco, Texas 78596
Attorney for Plaintiffs/Judgment Creditors

File:
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